

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
)
PATRICIA O'DONNELL)
vs.) No. 03-0246
THE PEOPLES GAS LIGHT & COKE)
COMPANY)
)
Complaint as to Respondent has)
threatened to disconnect the)
gas to my apartment due to bill)
incurred by a former tenant)
from February 2000 to February)
2002 in Chicago, Illinois.)
Chicago, Illinois
July 13, 2004

Met pursuant to notice at 10:00 a.m.

BEFORE :

MR. JOHN RILEY, Administrative Law Judge.

APPEARANCES:

MS. PATRICIA O'DONNELL
949 North Damen Avenue
Chicago, Illinois 60622
Appearing pro se;

McGUIREWOODS, LLP, by
MS. ERIN L. ZIAJA and
MS. JAIME HOCHHAUSEN
77 West Wacker Drive, Suite 4400
Chicago, Illinois 60601
Appearing for the respondent.

SULLIVAN REPORTING COMPANY, by
Julianne Murphy, RPR, CSR

1		<u>I</u>	<u>N</u>	<u>D</u>	<u>E</u>	<u>X</u>			
2	<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-</u> <u>direct</u>	<u>Re-</u> <u>cross</u>	<u>By</u> <u>Examiner</u>			
3	P. O'Donnell		160			126			
4	B. Schmoldt	165	198	195 204	207	194			
5									
6		<u>E</u>	<u>X</u>	<u>H</u>	<u>I</u>	<u>B</u>	<u>I</u>	<u>T</u>	<u>S</u>
7	<u>Number</u>	<u>For Identification</u>				<u>In Evidence</u>			
8	Comp. 1	136				136			
9	Comp. 2	154				154			
10	Comp. 3	157				159			
11	Resp. 1	172				174			
12	Resp. 2	174				176			
13	Resp. 3	176				179			
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17	Resp. 7	187				195			
18	Resp. 8	192				195			
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1 JUDGE RILEY: Pursuant to the direction of the
2 Illinois Commerce Commission, I now call Docket
3 03-0246. This is a complaint by Patricia O'Donnell
4 versus Peoples Gas Light and Coke Company as to
5 respondent has threatened to disconnect the gas to
6 her apartment due to a bill incurred by a former
7 tenant from February 2000 to February 2002 in
8 Chicago, Illinois.

9 Ms. O'Donnell, you are appearing pro se at
10 the hearing this morning?

11 MS. PATRICIA O'DONNELL: Okay.

12 JUDGE RILEY: That means you're appearing
13 without counsel; is that correct?

14 MS. PATRICIA O'DONNELL: Correct.

15 JUDGE RILEY: And would you state your address
16 for the record, please.

17 MS. PATRICIA O'DONNELL: 949 North Damen Avenue,
18 Chicago, 60622.

19 JUDGE RILEY: Thank you. And for respondent?

20 MS. ZIAJA: Erin Ziaja for McGuireWoods. It's
21 located at 77 West Wacker Drive in Chicago.

22 JUDGE RILEY: Thank you. And at this time,

1 Ms. O'Donnell, we have come here for a hearing
2 today and it's your opportunity to present your
3 case in chief with regard to the complaint you
4 filed. Are you prepared to proceed?

5 MS. PATRICIA O'DONNELL: Um-hmm.

6 (Witness sworn.)

7 JUDGE RILEY: Please proceed.

8 MS. PATRICIA O'DONNELL: All right. I'm going
9 to start by just responding to the lawyers'
10 response to my inquiry for information.

11 Since the gas company refused to answer
12 all but one of my five questions for data requests
13 indicates the extent of cooperation that is
14 customary and usual of the gas company's conduct,
15 their refusal to answer question one.

16 During a discovery hearing dated
17 October 9th, 2003 an agreement was made indicating
18 I would be held harmless for the gas charges
19 incurred between February 2000 and October 2001.

20 Their response was that Peoples Gas
21 objects as the interrogatory mischaracterizes the
22 nature of the agreement reached. To me this is

1 their way of saying, Judge, that you weren't
2 telling the truth when you had mentioned this about
3 October 9th.

4 Question 2 asks for the part of the law
5 that indicates Peoples Gas has the right to bill
6 someone who didn't ask for their service, didn't
7 want the service, and would have denied their
8 service if it was known that they were providing
9 it.

10 By your referral to -- by your refusal to
11 provide where it is stated by the law that Peoples
12 Gas has the right to hold me accountable, I can
13 only assume there is no such law and they are
14 totally out of line billing me for services I did
15 not ask for.

16 Question No. 3 asked for proof that the
17 meter was tampered with. They refused to answer
18 this, indicating that the gas -- which indicates to
19 me that the gas was never turned off.

20 Peoples Gas dropped the ball and wants me
21 to pay the bill for their employees' mistake. They
22 just gave this to me this morning, which I guess is

1 an indication that the thing was shut off.

2 MS. ZIAJA: Pursuant to a duty to supplement --
3 we found this document last night. I didn't have
4 a fax number for her so I brought it in this
5 morning and gave it to her.

6 JUDGE RILEY: What is the document?

7 MS. ZIAJA: It's relating to Eric Nieto's
8 account.

9 JUDGE RILEY: Okay.

10 MS. PATRICIA O'DONNELL: Question No. 4 asks for
11 a monthly dollar amounts detailing the actual field
12 charges, late payments, and interest. The best I
13 could interpret from the information, there was no
14 information provided except for my electric bills,
15 which I already have.

16 What James Cerny did is inexcusable, but
17 what the gas company is doing is appalling and
18 pathetic. They're expecting me to pay for the
19 mistakes and the negligence of their employees.

20 I say negligence and mistakes for the
21 following reasons: One, there is not one person in
22 this room that believes I lived in Chicago during

1 this time in question and the reason being I showed
2 my driver's license as indications of where I've
3 lived and proved where I lived for that whole time.
4 And if you want to I can pull that information out
5 again but I think it's a waste of time because
6 everyone's seen it.

7 Two, when asked for the information
8 regarding the gas for the apartment, whose name
9 it's in, the gas company advised that it was none
10 of my business. When I originally got -- when I
11 originally had gotten the bill, I had gone to the
12 gas company and they refused to give me
13 information, telling me it was none of my business.

14 Reiterate negligence because the meter
15 reader had to read the meters for the garden
16 apartment and second floor apartment. If you are
17 reading two meters, all three of them are running,
18 and the one in question is in between the two
19 meters, it would be -- it would be kind of
20 suspicious for the meter reader to see that all
21 three meters are running -- and my personal opinion
22 is they should have thought that there was some

1 foul play going on and bring it to somebody's
2 attention.

3 One month, okay, it's an oversight, but
4 the amount of time involved is obscene negligence.

5 Four, I was never advised of a problem
6 until almost three years after the fact. How could
7 I be expected to correct a situation that I'm not
8 aware of? As soon as the situation was discovered
9 why wasn't I notified? Why did it take me moving
10 back to Chicago and ask to have the gas put in my
11 name before this was brought to my attention?

12 Please keep in mind that there was a
13 tenant who was --

14 JUDGE RILEY: Go ahead. Continue.

15 MS. PATRICIA O'DONNELL: Okay. But there was a
16 tenant --

17 JUDGE RILEY: You're speaking to me. Don't --
18 right.

19 MS. PATRICIA O'DONNELL: I'm sorry. There was a
20 tenant between me and this whole thing.

21 So if they realized when that tenant moved
22 in that there was a problem why wasn't I contacted

1 at that time instead of six months later?

2 I'm sure that because of the time it took
3 for them to place this on me, I would have never
4 been billed if I did not move back. Therefore,
5 there is not a normal practice. I would guess
6 there are no policies or procedures in place.

7 Six, I'm accused of not having a lease.
8 There is no law that provides for a need for a
9 lease. I don't personally feel that the gas
10 company has the right to dictate their own laws and
11 have -- and force me to provide a lease. That's
12 not something that I think that they should have
13 the right to do. I mean, as a landlord if the
14 State of Illinois doesn't say I have to, I don't
15 think I should have to.

16 And seven, several months ago I received a
17 bill in my mailbox by error regarding the first
18 floor apartment at 949 North Damen Avenue. To
19 prevent a replay of the situation I went to the gas
20 company on Milwaukee Avenue and tried to give the
21 names of the two girls who lived in the apartment.

22 The girl behind the cage refused to take

1 the information and said the girls had to call for
2 themselves. I addressed this with the girls and
3 they said they would take care of it. If I never
4 got the mail for occupant, first floor, I would
5 never have known there was even a problem, which
6 I -- as soon as I did find out there was problem,
7 one, I attempted to contact the gas company and
8 then two, they refused to take the information.

9 For me, this is a lose-lose situation. I
10 also had a problem with the garden apartment where
11 they didn't bill that apartment for a year and a
12 half. The guy downstairs --

13 MS. ZIAJA: We're going to object to all of this
14 because this is completely outside of the scope of
15 the complaint. We are here for a period between
16 February 2000 and October 2001.

17 MS. PATRICIA O'DONNELL: I'm trying to show a
18 pattern here, that the gas company, if they can
19 pull this kind of stuff on me, one individual --

20 MS. ZIAJA: Establishing a pattern is not the
21 purpose of this. This is the discussion of the
22 facts relevant to what was stated in your

1 complaint.

2 JUDGE RILEY: Ms. O'Donnell, how much more of
3 that is there?

4 MS. PATRICIA O'DONNELL: There's just one other
5 case -- I mean, one other situation that I've had
6 personally and then I just got another page.

7 JUDGE RILEY: Okay. I'm going to have a whole
8 series of questions for you after this. But what
9 you're doing and reading is more in the nature of a
10 closing argument than anything else. That's what I
11 think counsel is objecting to. How much longer is
12 it?

13 MS. PATRICIA O'DONNELL: It's just about half a
14 page.

15 JUDGE RILEY: All right. I'll let her finish
16 and then I'm going to get to -- I'm going to have
17 questions for your case in chief.

18 MS. PATRICIA O'DONNELL: Okay. So I shouldn't
19 bothering finishing about the basement apartment?
20 If it's not going to be of any use as far as
21 setting a pattern, then I won't even bother
22 mentioning it.

1 JUDGE RILEY: The issue in this hearing is
2 whether or not you are liable for the charges for
3 the period -- what did we say?

4 MS. ZIAJA: February 2000 through October 2001.

5 MS. PATRICIA O'DONNELL: What I'm trying to show
6 here is that the gas company is just as responsible
7 as I am for not -- I mean, I didn't have a lease,
8 okay, so I could not show on a piece of paper other
9 than the fact that I had the Social Security
10 envelope and a few pieces of mail for Mr. Cerny
11 that he lived in my building. And the electric
12 company had the thing saying he lived in the
13 building.

14 So I am, okay, partially responsible that
15 this whole thing happened, but the gas company on
16 the same token is responsible for not -- I mean,
17 they do this on a regular basis, it seems, that
18 they don't take information. They don't put it
19 into their computers. They don't --

20 MS. ZIAJA: Again, I'm going to object. I'm
21 going to object to this type of discussion. We're
22 just -- we're discussing what happened to

1 Ms. O'Donnell from a period of February 2000
2 through October 2001. And she has no basis to
3 indicate what Peoples Gas's policies are and how
4 they maintain their computer system.

5 She has no basis of knowledge for that to
6 be able to testify to that.

7 MS. PATRICIA O'DONNELL: I can just tell how
8 they treat me.

9 JUDGE RILEY: Okay. Ms. O'Donnell, I'm sorry,
10 but I'm afraid that counsel is correct as far as
11 that's concerned.

12 I mean, the policies and procedures of the
13 gas company are something for what I would term a
14 final argument. And what you have written down
15 there would be something you might want to type up
16 and submit as a closing brief.

17 MS. PATRICIA O'DONNELL: Okay.

18 JUDGE RILEY: So to that extent, I will sustain
19 counsel's objections.

20 Let me give you this back for the time
21 being. Let's frame the issue before we do anything
22 else.

1 PATRICIA O'DONNELL,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY

6 JUDGE RILEY:

7 Q. You had originally complained that
8 respondent had threatened to disconnect your gas to
9 your apartment due to a bill incurred by a former
10 tenant from February 2000 to February 2002 in
11 Chicago.

12 We have since narrowed that period of time
13 from February 2000 to October 2001. And the issue
14 is whether or not you're liable for the charges to
15 59- -- 5729 West Addison for that period of time.
16 That's what we have got to get to.

17 Did you live at 5729 West Addison from
18 February 2000 to October 2001?

19 A. No.

20 Q. You did not live there?

21 A. No. I lived in California.

22 Q. All right. Now, this is an apartment

1 building; is that correct?

2 A. Yes.

3 Q. And how many units are in it?

4 A. Three.

5 Q. Okay. Is that a -- what would be called a
6 garden apartment? That's a basement apartment, a
7 first floor, and a second floor.

8 A. Um-hmm.

9 Q. Do you know from February 2000 to
10 February -- to October 2001 who lived in the garden
11 apartment?

12 A. Yeah. Part of that time Dylan and his
13 brother.

14 Q. Okay. Dylan?

15 A. Yeah.

16 Q. Do you know the full person's name?

17 A. Uhn-uhn. I just know they were tatoo guys
18 from Tattoo Tattoo.

19 Q. Is this a business of some kind?

20 A. Yeah. It's a tattoo parlor.

21 Q. Do you know the brother's name?

22 A. No.

1 Q. And do you know what dates they lived in
2 the garden apartment?

3 A. I couldn't give you the exact dates, but
4 they lived there part of that time and Dan Suerth
5 and Eva Kozac lived there the rest of the time,
6 which you guys could probably look up in your
7 records.

8 Q. Say the names again. Dan --

9 A. Danny Suerth.

10 Q. S-u-e-r-t-h?

11 A. Exactly.

12 Q. And?

13 A. Eva Kozac.

14 Q. I have that document you're looking at, as
15 a matter of fact. K-o-z-a-c?

16 A. Yeah.

17 Q. And is that all for the garden apartment?

18 A. During that time.

19 Q. During that time period, okay. Now, with
20 regard to the first floor.

21 A. Okay. The first floor after Roy Ganto
22 moved out, correct?

1 Q. Well, can we pinpoint who was living there
2 as of February 2000?

3 A. That was James Cerny.

4 Q. James --

5 A. Because he moved in right after Eric Nieto
6 moved out.

7 Q. Okay. James Cerny. Is that reflected --
8 all right. Yes, it is. That's C-e-r-n-i-e or --

9 A. Um-hmm [sic]

10 Q. Do you know what dates Mr. Cerny lived on
11 the first floor?

12 A. I couldn't give you the exact dates, but it
13 was when Eric Nieto moved out. James Cerny moved
14 in right away.

15 Q. And can we even approximate that?

16 A. No, because I never thought there was any
17 problem so I never --

18 Q. All right. I understand that. But the
19 question is can we pinpoint these dates. But James
20 Cerny lived on the first floor. Who else was
21 there? There was an Eric Nieto?

22 A. Eric Nieto was there first. When Eric

1 Nieto moved out, which I think I have the shutoff
2 notice from Eric Nieto, James Cerny moved in right
3 away. And James Cerny lived there until Mike
4 Streff moved in.

5 Q. Mike Streff?

6 A. Um-hmm.

7 Q. And Mr. Streff, do you know when -- do you
8 know any of the approximate dates for Mr. Nieto or
9 for Mr. Streff?

10 A. Mr. Streff, I know that he only lived there
11 six months because he moved out even though his
12 lease wasn't up so that I could move in. And I
13 moved in in October so it would have been probably
14 around April of 2002 that he moved out -- or no,
15 that he moved in and then moved out in October of
16 2002.

17 Q. Okay. So it was approximately April of '02
18 that he moved in?

19 A. Yeah, approximately.

20 Q. You said it was about a six-month stretch
21 he was there?

22 A. He was there about six months.

1 Q. And in October of '02 then you moved in?

2 A. Um-hmm.

3 Q. Okay. Now, going to the second floor, we

4 have Mr. Daniel Suerth again and Joseph Tallon?

5 A. Yeah.

6 Q. Do we know when they moved there or when

7 they resided there?

8 A. They had lived there -- it would have been

9 starting in '97.

10 Q. Were they living together?

11 A. Yeah.

12 Q. Is that Joseph Tallon, do you know?

13 A. Yeah.

14 Q. They began there 1997?

15 A. Um-hmm.

16 Q. And do we know when they moved out?

17 A. Well, Joe stayed there and Mark moved in

18 with him. And Dan moved in with his girlfriend

19 into the garden apartment.

20 Q. I see. So a gentleman named Mark -- all

21 right. And we don't know when Suerth moved out or

22 when Mark moved in; is that correct?

1 A. Right.

2 Q. And then at some point, according to this

3 document, Mr. Cerny moved to the third floor --

4 excuse me, to the second floor?

5 A. Right, because Nikki Rizzo moved in and

6 then Nikki and James started dating so then he

7 moved in with her.

8 Q. And that was on the second floor?

9 A. Yeah.

10 Q. Now, who are Rommel Hood and Jose Gonzalez?

11 A. Okay. Rommel Hood moved in after Nikki and

12 James moved out.

13 Q. And do we know when that was?

14 A. That would have been in January of 2002.

15 Q. Okay. So we're getting outside the scope

16 of the -- outside the scope of the -- outside of

17 our -- excuse me, outside of our time frame here.

18 A. Um-hmm.

19 Q. Okay. So Mr. Cerny you're saying was

20 living there through October of 2001?

21 A. Let me -- upstairs?

22 Q. We're talking about the second floor

1 apartment now.

2 A. Okay. Yeah. It would have been -- he
3 moved out in probably April of -- off the first
4 floor because he moved out and then Mike Streff
5 moved in. So it would have to have been April of
6 2002 that he moves off the first floor to the
7 second.

8 Q. Mr. Cerny, you mean?

9 A. Yeah.

10 Q. April of 2002 --

11 A. Um-hmm.

12 Q. -- moved from second to third?

13 A. Um-hmm.

14 Q. I'm sorry, from the ground floor -- from
15 the first floor to the second floor?

16 A. Um-hmm.

17 Q. And this Rommel Hood who was outside -- was
18 after October of 2001?

19 A. Yeah, because he moved in in January of
20 2002.

21 Q. Okay. And then a Mr. Jose Gonzalez, you've
22 got the date of June 27th, 2003?

1 A. Um-hmm.

2 Q. And that's -- is that when this person
3 moved in?

4 A. Um-hmm.

5 Q. Okay. But that's well after again?

6 A. Um-hmm.

7 Q. So that is roughly what we have as the
8 residents of the garden apartment, an individual
9 named Dylan and his brother whose last names we
10 don't know were there part of the time. And then a
11 Danny Suerth and Eva Kozac were there the rest of
12 the time.

13 On the first floor was a Mr. Eric Nieto
14 followed by Mr. James Cerny then a Mr. Streff who
15 we believe was there from April of '02 until
16 October of '02 and he moved out and you moved in.

17 And on the second floor Mr. Suerth was
18 residing with a Mr. Tallon. Starting in 1997
19 Mr. Suerth moved downstairs to the garden apartment
20 and an individual named Mark whose last name we
21 don't know moved in. And then Mr. Cerny moved in
22 in April of '02 after moving from the first floor

1 to the second?

2 A. Um-hmm.

3 Q. Okay. Now, with regard to this document

4 that you've got labeled, it contains the name 5729

5 West Addison and it's -- in the upper left corner

6 it has the indication No. 1. Did you prepare this?

7 A. Um-hmm.

8 Q. And was this prepared -- you have to speak

9 up. You have to say yes.

10 A. Yes.

11 Q. And was this prepared in response to the

12 data request that was sent to you by the

13 respondent?

14 A. Actually it was originally made up when I

15 still had that attorney Sigi.

16 Q. Okay.

17 A. And I just made a copy of it to give to her

18 per the request.

19 JUDGE RILEY: All right. Then let's mark this

20 as a complainant exhibit. We' call it

21 Complainant's Exhibit 1.

22

1 (Whereupon, Complainant's
2 Exhibit No. 1 was
3 marked for identification
4 as of this date.)

5 BY JUDGE RILEY:

6 Q. But this is your handwriting; is that
7 correct? Yes?

8 A. Yes. Sorry.

9 Q. And I trust that you're moving for the
10 admission of this document into evidence?

11 A. Yes.

12 JUDGE RILEY: And is there an objection?

13 MS. ZIAJA: No, there's no objection.

14 JUDGE RILEY: All right. Then Complainant's
15 Exhibit 1 is admitted into evidence.

16 (Whereupon, Complainant's
17 Exhibit No. 1 was
18 admitted into evidence as
19 of this date.)

20 BY JUDGE RILEY:

21 Q. Ms. O'Donnell, what we are next going to do
22 is go through the documentation both that you

1 produced in response to the data requests and
2 anything else that you may have that would provide
3 any evidence of who these people are and when they
4 lived at the address in question.

5 One of the documents that I wanted to take
6 a look at here, it has a picture of your California
7 driver's license apparently and has the notation
8 Social Security Administration, important
9 information. To the right it has an address for a
10 Social Security Administration in Alexandria,
11 Virginia and to the left a little bit below that it
12 has the notation in print, Raymond R. Cerny, 5729
13 West Addison, First Floor, Chicago, Illinois.

14 Below that there is a -- it looks like a
15 photocopy of a label and it says James Cerny, 5729
16 West Addison Street, Chicago, Illinois.

17 Do you know which document I'm referring
18 to here?

19 A. Um-hmm. Yes.

20 Q. Now, the one with the label of James Cerny
21 in the upper right corner it has a postmark
22 that's -- much of which is difficult to read

1 unfortunately, particularly the date. What is
2 this?

3 A. It was just mail that was laying around in
4 the hallway that I happened to pick up, which I --
5 was my evidence that he lived in the building.

6 Q. My question would be: What is the purpose
7 of this photostat? Why does it contain your
8 California driver's license and thereon labels
9 addressed to them?

10 A. Because that's how Sigi did it, the
11 attorney that I had. When he made the photocopies
12 of my information he just so happened to put my --
13 probably to save paper.

14 Q. All right.

15 A. The California license was to show that I
16 was living in California at the time.

17 Q. All right. Let me ask you this. And --

18 MS. ZIAJA: I do. I have a copy.

19 BY JUDGE RILEY:

20 Q. Is the label reading Raymond R. Cerny, was
21 that on the same envelope or on the same document
22 as the address for the Social Security

1 Administration?

2 A. Um-hmm.

3 Q. And the date of that Social Security
4 Administration label or notation is June 21, 2002.
5 Again, we're outside the scope of our -- excuse me,
6 strike that -- outside the period in question.

7 Are you able to read the date down below
8 in the postmark for the label of James Cerny?

9 MS. ZIAJA: She has the originals.

10 MS. PATRICIA O'DONNELL: This is just junk that
11 I picked up in the hallway, but it shows the people
12 that lived, Joe Tallon, Nikki Rizzo. This is just
13 James Cerny.

14 JUDGE RILEY: Let the record reflect that the
15 letter or whatever the correspondence was mailed to
16 Joseph Tallon at 5729 West Addison Street, Third
17 Floor, does not contain a date of any kind on it.

18 BY JUDGE RILEY:

19 Q. All right. Let's -- well, the first three
20 that we're going to deal with here, I mentioned the
21 one from Joseph Tallon. There's no date on there
22 at all. There is a letter or correspondence of

1 some type addressed to James Cerny at 5729 West
2 Addison Street; however, the postmark is
3 January 16, 2003.

4 There is a letter from the Illinois
5 Secretary of State vehicle services department to a
6 Nicole Rizzo at 5729 West Addison Street; however,
7 the postmark on this envelope is November 20, 2002
8 and that is also outside the period of time that
9 we're talking about here.

10 Do you have anything else?

11 A. No, because I was living in California at
12 the time so there really wasn't a whole lot that I
13 could gather in the hallway and stuff like that
14 because I wasn't there.

15 Q. What have you submitted to me here? There
16 is an envelope --

17 A. That bill right there from Peoples Gas was
18 when Nikki Rizzo was living in the apartment.

19 Q. And this is --

20 A. I have no idea if she ever paid it.

21 Q. All right. The document that you've
22 submitted, it's stapled to a -- what I would term

1 junk mail from C-i-t-i. I don't know if that's
2 Citibank or not. But it's addressed to Nicole R.
3 Rizzo at 5729 West Addison Street in Chicago.

4 And stapled to it is a Peoples Energy bill
5 dated December 9, 2002 to "resident" with an
6 account number 9500027048226 for service to the
7 second floor. Now, that's the top floor?

8 A. Um-hmm.

9 Q. So for the purposes of clarification we're
10 going to refer to the apartments in the building as
11 the garden apartment, the first floor, and the
12 second floor. However, the bill date is for
13 December 9, 2002 in the amount of \$798.14. But I
14 note that it does not contain a period of service,
15 not that I can find.

16 A. And the reason I got my hand on that bill
17 was because when Rommel Hood moved in, he saved
18 that. He forwarded that to me.

19 MS. ZIAJA: I'm going to object to this
20 document. It's outside the scope of this period.
21 It's referring to a resident that's not being
22 disputed in this issue, and it's related to an

1 apartment that's not in issue.

2 We're dealing with gas service to the
3 first floor apartment. I don't know what bearing
4 that this bill could have on the merits of this
5 complaint, and I don't even know if that's the
6 entirety of the bill. It's stapled to a piece of
7 junk mail from Citibank.

8 MS. PATRICIA O'DONNELL: The reason this junk
9 mail is here is because that way I could show that
10 these people that I claim lived in the building
11 actually did live in the building because I don't
12 have leases.

13 BY JUDGE RILEY:

14 Q. But we're unable to pinpoint exactly when
15 they lived in the building; is that -- well, let me
16 ask you this. Let me give that back to you for the
17 time being.

18 Are you able to state with any -- even
19 a -- even approximating when these people lived in
20 the building? Do you know what -- was that Nicole
21 Rizzo?

22 A. Yes.

1 Q. Do you know --

2 A. I know that she moved out in January of

3 2002 because that's when Rommel Hood moved in.

4 Q. Where was she living?

5 A. She was living on the second floor.

6 As an absentee landlord I've got to admit

7 I've had pretty crummy tenants except for Danny and

8 Eva and Joe Tallon wasn't bad.

9 Q. Did you say that Ms. Rizzo moved out in --

10 A. It was either December or January. It was

11 December of 2001 or January of 2002.

12 Q. And do you know -- do you remember when she

13 moved in?

14 A. She only lived there -- because she wasn't

15 paying her rent. So she only lived there for about

16 six months.

17 Q. Did she ever live on the first floor?

18 A. No.

19 Q. All right. Is there anything else on all

20 of the documentation you have that would possibly

21 establish who lived on the first floor?

22 A. I have the original of this (indicating).

1 Q. Okay. No. Again, I can't -- it's not
2 probative of anything that we're talking about
3 because it simply refers to the date June 21, 2002.
4 So unless it establishes that Mr. Cerny was living
5 in the first floor apartment at the time in
6 question, which is February of 2000 to October of
7 2001 --

8 A. See, the problem is because the gas company
9 never advised me that there was a problem, I mean,
10 if I would have known at the time there was a
11 problem I could have done something about it. But
12 to come to me two years later after the fact --
13 there should be some sort of statute of limitation.

14 That's the only paperwork I have as far as
15 who lived in the building.

16 Q. Okay. Now, is it your understanding also
17 that the only billing that's in dispute is the
18 billing to the first floor?

19 A. Yeah.

20 Q. Okay.

21 A. And I don't own that building anymore,
22 so -- thank God.

1 Q. Do you know what your account number was
2 when you moved back into the building in October
3 of --

4 A. Yes, I do.

5 Q. Let me -- strike that. Strike that.
6 That's not what I want.

7 Do you know what the account number was --
8 is there any documentation that shows what the
9 account number was for the first floor from
10 February 2000 to October 2001?

11 A. Yes. This is the account number.

12 Q. All right. Let the record reflect that the
13 account number is 7500028393444, and I'm reading
14 from a Peoples Gas bill dated October 7, 2002. And
15 yet it is stapled to another document with a bill
16 date -- Peoples Gas bill dated October 4, 2002 with
17 your name on it for the first floor.

18 A. Um-hmm.

19 Q. It has a totally different account number.

20 A. Um-hmm. That was my account.

21 Q. Okay.

22 A. Then they just took and changed it and

1 combined the two accounts.

2 Q. In other words, they put a separate account
3 number on for unknown occupant, which is what reads
4 on the October 7 bill. And then the -- for your
5 personal account for the first floor, it reads
6 something entirely different.

7 A. And then later on in the same month they
8 combined the bills together.

9 Q. Where does it say that they combined the
10 two bills together?

11 A. Here, I'll show you. Okay. This is the
12 original account, this one, the 34.44 they took and
13 they changed that to have a \$16 and \$24 balance and
14 they put the whole thing to my name and that
15 account number.

16 Q. So there's yet a third account number
17 there --

18 A. Yes.

19 Q. -- after they had combined the two --

20 A. Right.

21 Q. -- the unknown occupant and yours?

22 A. Right.

1 Q. All right. Let me -- and I note that
2 stapled to it are additional Peoples Energy bills
3 in your name for the same address and the same
4 apartment, and yet it's yet a different account
5 number.

6 No, strike that. I take that back. No.
7 It is the same account number.

8 A. It should be the third account number and I
9 was just paying the current bill for all of them.

10 Q. But your original account number, can you
11 confirm that -- when you moved in there in October
12 of '01 your account number was 8500030147785?

13 A. That was this first page?

14 Q. Right. That's it, right. So they -- then
15 they went -- the bills to the unknown occupants in
16 October of '02 are on account 7500028393444, and
17 then the October 25 bill to you, the combined, the
18 bills to you and the unknown occupant, there was an
19 account number 8500030890893, which is different
20 than your original account number.

21 A. Right.

22 Q. Then did it revert back to your original

1 account number?

2 A. (Shaking head.)

3 Q. This is why I'm totally confused because in
4 December 9 of 2002 there's an amount of \$2,691.12
5 due and yet it is billed to your original account
6 number.

7 A. Then they must have -- I've got to be
8 honest. I don't pay that close attention to the
9 account numbers; I just pay the bills.

10 JUDGE RILEY: Let the record reflect that
11 subsequent bills to the complainant at the first
12 floor apartment reflect the original account number
13 also -- I should say subsequent statements.
14 There was nothing due on these.

15 But that's as of -- that's through
16 February, March, and April of 2004. There's no
17 amount due, but they reflect a total balance of
18 \$2,802.07.

19 Is it your testimony that that is the
20 current balance that they're billing you for now.

21 A. As far as I know because when I moved, I
22 paid my final bill of the current charges. So

1 whatever they're contending that I owe, that's the
2 only thing that should be on there.

3 Q. When did you move out of 5925 West -- 5729
4 West Addison?

5 A. I sold the building in November, but I
6 moved a few months before that. So probably I
7 moved out in June.

8 Q. In June of 200- --

9 A. 3. This is 4, right? Yeah, 2003.

10 Q. In June of '03. And you sold the building
11 in November?

12 A. Yeah.

13 Q. Did you get a final bill from Peoples Gas
14 when you moved out?

15 A. As far as I know, I did, and as far as I
16 know, I paid it.

17 Q. And do you remember what that was?

18 A. No, I don't.

19 Q. Was your name off the account when you
20 moved out? Was it taken off the account?

21 A. Yeah. I called to have them shut the gas
22 out of my name. And then Danny and Eva moved into

1 the second floor apartment -- or the first floor
2 apartment, I'm sorry.

3 When I moved out, Danny and Eva moved
4 upstairs.

5 Q. And do you know if they had the gas
6 switched to their name?

7 A. Yes, they did.

8 Q. Do you recall making a payment of anything
9 close to \$2,802.07 when you moved out?

10 A. No.

11 Q. You had the gas shut off when you moved
12 out?

13 A. Um-hmm.

14 Q. Okay.

15 A. Now, as a matter of fact I was getting
16 calls from a collection agency for Peoples Gas.

17 Q. Okay.

18 A. So I don't even know if they put that on my
19 credit report or not.

20 Q. Okay. Hang on to that.

21 Ms. O'Donnell, have we gone through
22 everything that you have that could possibly

1 establish whether -- excuse me, who was living in
2 that first floor apartment from February 2000 to
3 October of '01?

4 A. Yes.

5 Q. Okay. We've gone through all of the
6 documentation that would possibly establish that
7 and this is the best of your recollection; is that
8 correct?

9 A. Yes. And I also have this that will tell
10 you where I was living during that whole time.

11 Q. Right. And this was also a response to one
12 of the data requests, wasn't it?

13 A. Um-hmm.

14 Q. Right. This, we have. All right. Do you
15 want to mark this as an exhibit?

16 A. Yeah.

17 JUDGE RILEY: Why don't we do that. Counsel, do
18 you have a copy of this?

19 MS. ZIAJA: I don't believe that I got that in
20 the data requests.

21 JUDGE RILEY: Because I had my copy.

22 MS. ZIAJA: I'll take your word for it that it

1 was sent and that it's in here somewhere. Well,
2 regardless of --

3 BY JUDGE RILEY:

4 Q. Let me ask the question again: This was
5 prepared -- was this document prepared by you in
6 response to a data request from Peoples Gas?

7 A. Yes.

8 Q. All right. And to your knowledge it is
9 accurate?

10 A. Yes.

11 Q. All right.

12 MS. ZIAJA: I do have it in here.

13 JUDGE RILEY: You do.

14 BY JUDGE RILEY:

15 Q. One thing I'd like to ask you about, it
16 states that you lived at a particular address in
17 Pacifica, California from February '78 through
18 February of 2000, and then you lived at a different
19 address in Fremont, California from February of '78
20 through April 2001. You're in Pacifica from
21 February '78 to February 2000 and you were in
22 Fremont, California from February '78 to April of

1 2001.

2 A. That should have been February of 2000.

3 That's the typo.

4 Q. Where is the mistake?

5 A. Right here. That should be from February
6 2000 --

7 JUDGE RILEY: Counsel, I take it she's moving to
8 amend where it says the rented house with Kevin
9 Normandy at 34448 Redgrave in Fremont, California
10 from approximately February '78, that should be
11 February of 2000.

12 MS. ZIAJA: Okay. But she was at the first
13 address since 1978?

14 JUDGE RILEY: From February '78 through February
15 2000. That is correct, isn't it?

16 THE WITNESS: Um-hmm.

17 JUDGE RILEY: Okay. Then we will amend this
18 document to reflect that the rented house with
19 Kevin Normandy in Fremont, California was from
20 approximately February of 2000 through April of
21 2001.

22

1 (Whereupon, Complainant's
2 Exhibit No. 2 was
3 marked for identification
4 as of this date.)

5 JUDGE RILEY: Okay. And we've marked this as
6 Complainant's Exhibit 2. You state that it was
7 prepared by you in response to a data request and
8 you're moving for the admission of the admission of
9 this exhibit into evidence?

10 THE WITNESS: Yes.

11 JUDGE RILEY: And is there any objection from
12 Peoples Gas?

13 MS. ZIAJA: I would object to the extent of
14 relevance. I mean, I don't think anyone is
15 disputing that she lived in California during the
16 time period in question.

17 JUDGE RILEY: I understand. But there's some
18 evidence in her case so I'm going to allow it.

19 (Whereupon, Complainant's
20 Exhibit No. 2 was
21 admitted into evidence as
22 of this date.)

1 JUDGE RILEY: This is your copy, isn't it?

2 MS. ZIAJA: No. That is actually the

3 evidentiary copy.

4 JUDGE RILEY: Thank you.

5 BY JUDGE RILEY:

6 Q. Let me see those gas bills again. What is

7 the amount right now that is in dispute, do you

8 know? What are you being billed for?

9 A. To be honest, I really don't know.

10 Q. You settled your account entirely with

11 Peoples Gas when you moved out; is that correct?

12 A. For the current -- for my bill, for what I

13 used, the gas that I used.

14 Q. I see, but there was an amount that they're

15 billing you for from February 2000 to October of

16 2001 that's in dispute and we don't know what that

17 exact amount is, is that correct, or you don't --

18 A. I don't know.

19 Q. All right. Do you have Peoples Gas service

20 now?

21 A. Yes, I do.

22 Q. And when you receive your current bills, do

1 they reflect only the gas usage for your current
2 address?

3 A. Yes.

4 Q. They reflect no past-due bills -- no
5 past-due amounts?

6 A. No.

7 Q. And you said you threatened -- you filed
8 this complaint because they had threatened to shut
9 your gas off?

10 A. Correct.

11 Q. Do you remember what the amount was that
12 was in dispute at that time?

13 A. \$2,714.92.

14 Q. All right. Did you pay all or any part of
15 the \$2,714.92?

16 A. No, I have not.

17 Q. And did the -- did Peoples shut your gas
18 off?

19 A. Uhn-uhn.

20 Q. Did they shut your gas off as a result?

21 A. No.

22 JUDGE RILEY: I want to mark that gas bill as an

1 exhibit also. That is Complainant's Exhibit 3.

2 (Whereupon, Complainant's Deposition
3 Exhibit No. 3 was
4 marked for identification
5 as of this date.)

6 JUDGE RILEY: And until the evidence --
7 subsequent evidence proves otherwise, I'm going to
8 treat this as the disputed amount due.

9 BY JUDGE RILEY:

10 Q. Now, this was sent to you long after you
11 moved out of -- no, it wasn't. Are you -- let me
12 go back and make sure of these dates.

13 Now, this was sent to you prior to the
14 time you moved out; is that correct?

15 A. Yes.

16 Q. And yet when you moved out, you had the
17 account closed?

18 A. Um-hmm.

19 Q. You had no difficulties with Peoples Gas
20 with regard to closing the account?

21 A. Uhn-uhn.

22 Q. There was no final bill due; there was

1 no --

2 A. No, because I always paid my portion of the
3 bill. Actually the people at the gas company
4 themselves at the center they're always very nice
5 to me.

6 Q. Okay. And is it correct that you're moving
7 for the admission of this Complainant's Exhibit 3,
8 the disconnection notice, into evidence?

9 A. Yes.

10 JUDGE RILEY: Counsel, response?

11 MS. ZIAJA: I have no objection to entering that
12 document; however, I would say that we will be
13 presenting evidence to indicate that there was an
14 additional final bill. So there's a slight
15 difference in terms of what we're saying the amount
16 owing is but I have no objection to that document.

17 JUDGE RILEY: Right. I -- subsequent evidence,
18 so --

19 MS. ZIAJA: Right.

20 JUDGE RILEY: All right. Then Complainant's
21 Exhibit 3 is admitted into evidence.

22

1 (Whereupon, Complainant's
2 Exhibit No. 3 was
3 admitted into evidence as
4 of this date.)

5 JUDGE RILEY: Let the record reflect that it's
6 also the original account number, 8500030147785.

7 BY JUDGE RILEY:

8 Q. Then I will ask again: Is there anything
9 else that you may have to establish the residency
10 of other parties from February 2000 to October of
11 2001?

12 A. Unfortunately, no.

13 Q. Okay. Did you have any witnesses that you
14 wanted to present on your behalf?

15 A. Well, I tried talking James Cerny's brother
16 Bob into coming in. At first he was going to and
17 then I couldn't locate him this morning so I
18 couldn't bring him in with me. But he's also
19 homeless so it's a matter of I couldn't find him.

20 JUDGE RILEY: Then you probably won't be able
21 to.

22 Well, what we will all do now then is just

1 treat your case as -- your case in chief as having
2 been completed. Let's take a brief five- to ten-
3 minute recess.

4 (A short break was had.)

5 JUDGE RILEY: Let the record reflect that the
6 complainant's references to an individual named
7 Sigi earlier in her testimony was a gentleman who
8 represented her, an attorney named Sigi, S-i-g-i,
9 Offenbach, O-f-f-e-n-b-a-c-h for the court
10 reporter's information for what it's worth.

11 Counsel for the respondent, complainant
12 has wrapped up her case in chief. Did you want to
13 cross-examine her?

14 MS. ZIAJA: I have a few questions for her.

15 JUDGE RILEY: Please proceed.

16 CROSS EXAMINATION

17 BY

18 MS. ZIAJA:

19 Q. You were the owner of the property at 5729
20 West Addison between the period of February 2000
21 through October of 2001?

22 A. Yes.

1 Q. And during that time you've indicated that
2 you rented the first floor apartment to a James
3 Cerny?

4 A. Yes.

5 Q. And then there's also a reference to
6 Raymond Cerny. Who was that?

7 A. His father.

8 Q. And you're maintaining that his father
9 lived in that apartment as well?

10 A. Yes.

11 Q. You don't have a lease with either of those
12 people?

13 A. No.

14 Q. And you have no bills that indicate that
15 Mr. Cerny, either Raymond Cerny or James Cerny,
16 lived in that apartment during the time period in
17 dispute?

18 A. No.

19 Q. Do you have any bills -- do you have any
20 copies of a reference check that you ran when they
21 first moved into the apartment?

22 A. No.

1 Q. Do you have a copy of any rent receipts
2 that you provided to them?

3 A. I didn't give them rent receipts.

4 Q. Do you have any copies of the cancelled
5 checks that either of them paid to you -- paid to
6 you in rent?

7 A. They paid me cash.

8 Q. Do you have any income tax statements
9 showing who the tenants were on the property?

10 A. I have income tax statements showing
11 that -- if it was rent but I don't believe my
12 accountant's ever asked me for the names of the
13 people that were renting it.

14 So it would just show -- my income tax
15 returns would just show the income that I have --

16 Q. It would show that it was a rental property
17 but it wouldn't indicate who the tenants were?
18 There were no attachments in terms of checks
19 received or anything like that?

20 A. (Shaking head.)

21 Q. So you basically have no documentation of
22 who lived in that apartment during the time period

1 in question?

2 A. Right.

3 Q. You previously stated in an ICC hearing on
4 May 21st, 2003 that you had Mr. Cerny evicted; is
5 that correct?

6 A. Yes.

7 Q. For failure to pay rent?

8 A. Right.

9 Q. Do you have copies of his eviction papers?

10 A. No. I just gave them a five-day notice and
11 they moved out.

12 Q. You've maintained that you don't have any
13 leases for this building; however, during today's
14 testimony you indicated that Mr. Mike Streff moved
15 out prior to his lease?

16 A. It's a verbal lease.

17 Q. A verbal lease. You had a verbal lease
18 with Mike Streff?

19 A. Yeah.

20 MS. ZIAJA: You've maintained that you
21 haven't -- no. I have no further questions. I
22 have nothing further.

1 JUDGE RILEY: Excuse me just a second.

2 (A short break was had.)

3 JUDGE RILEY: Okay. We're back on the record,
4 and Counsel, did I understand you correctly that
5 you have completed your cross-examination?

6 MS. ZIAJA: I have.

7 JUDGE RILEY: Nothing further. All right. Did
8 you have anything to offer in the way of redirect,
9 anything --

10 MS. PATRICIA O'DONNELL: Uhn-uhn.

11 JUDGE RILEY: Then that would -- excuse me. I
12 misspoke earlier. That would now complete the case
13 in chief. Did you have a witness that you wanted
14 to call, Counsel?

15 MS. ZIAJA: We do. We have Mr. Brian Schmoldt
16 from Peoples Gas.

17 JUDGE RILEY: All right. And you've called the
18 witness Brian --

19 MR. BRIAN SCHMOLDT: Brian Schmoldt,
20 S-c-h-m-o-l-d-t.

21 (Witness sworn.)

22 JUDGE RILEY: Please proceed.

1

2

BRIAN SCHMOLDT,

3

called as a witness herein, having been first duly

4

sworn, was examined and testified as follows:

5

DIRECT EXAMINATION

6

BY

7

MS. ZIAJA:

8

Q. Mr. Schmoldt, where do you work?

9

A. Peoples Gas Company.

10

Q. And what is your position with Peoples Gas?

11

A. I'm a special service representative.

12

Q. How long have you been with this company?

13

A. 11 years.

14

Q. And what do your responsibilities as a

15

special -- did you say a special service

16

investigator?

17

A. Representative.

18

Q. Special service -- what do your

19

responsibilities as special service representative

20

entail?

21

A. I investigate all billing complaints with

22

the Illinois Commerce Commission.

1 Q. Is that how you first became aware of the
2 Patricia O'Donnell matter?

3 A. Yes.

4 Q. And in your capacity as a special service
5 representative have you had the opportunity to
6 become familiar with Peoples Gas's policy toward --
7 or I guess relating to the unauthorized usage of
8 gas?

9 A. Yes.

10 Q. And have you also had the opportunity to
11 become familiar with Peoples Gas's policies and
12 procedures relating to billing for previously
13 unbilled services?

14 A. Yes.

15 Q. Is that what your prepared to speak to
16 today as well as the specifics of Ms. O'Donnell's
17 case?

18 A. Yes.

19 Q. Mr. Schmoldt, generally speaking, what is
20 entailed in unauthorized service?

21 A. Finding -- like we go out and do an
22 investigation. We find that we previously had shut

1 the gas off, then we go out there and find out the
2 gas is back on without our knowledge.

3 Q. Is that something that's typically
4 difficult to track down?

5 A. In some instances, yes.

6 Q. How so?

7 A. If we're not allowed access into the
8 building or if it's a meter that we haven't read in
9 awhile.

10 Q. There's no way to determine --

11 A. There's no way to determine if the gas is
12 back on unless we read that particular meter at
13 that time.

14 Q. And on the occasions when you do determine
15 that there's been unauthorized use, what is Peoples
16 Gas's procedures and policies relating to trying to
17 reconcile that?

18 A. We try to find out who's responsible for
19 that unauthorized gas usage.

20 Q. And this implicates your policy of billing
21 for previously unbilled services?

22 A. Correct. Yes.

1 Q. And if you determine who is the recipient
2 of the gas or the beneficiary of the gas, do you
3 then issue a bill?

4 A. Yes.

5 Q. Is it the standard procedure to
6 determine -- to try to determine who in fact is
7 receiving these unauthorized gas services?

8 A. We try to find out, yeah, who's the
9 beneficiary of this unauthorized gas.

10 Q. And if you can't find who for example would
11 be a tenant or the recipient do you issue unknown
12 occupant bills?

13 A. Yes.

14 Q. And what -- can you explain a little bit
15 about what happens with that?

16 A. Well, we send out a billing trying to hope
17 that somebody contacts us and says, Hey, I'm the
18 person here. It's my bill. Bill me.

19 But most of the time most people don't
20 take responsibility for their bills.

21 Q. And instances when they don't take
22 responsibility what is your next step?

1 A. We try to contact -- we're supposed to try
2 and contact the lawyers -- not the lawyers, the
3 owners of the property.

4 If they can't get ahold of the owners,
5 we'll send a bill to the owner. Hopefully then the
6 owner will contact us and say, Well, this is the
7 tenant I have in there.

8 And we ask them to send us proof of the
9 tenants so then we will bill the tenant for their
10 usage.

11 Q. And if the owner cannot supply proof of who
12 the tenant was, is it the policy then to bill the
13 owner directly for the service?

14 A. Yes.

15 Q. And hold the building owner responsible for
16 that bill?

17 A. Yes.

18 Q. Is that what happened here?

19 A. Yes.

20 Q. Did you issue unknown occupants bills in
21 this case?

22 A. We issued an unknown occupant bill first,

1 yes.

2 Q. And when there is was no response to that,
3 did you issue an owner bill?

4 A. Yes.

5 Q. Having said that, I'd like to direct your
6 attention to the specifics of Ms. O'Donnell's case.
7 As you're aware, the time period in dispute is
8 between February 2000 through October 2001,
9 although the original complaint indicated the
10 billing dispute of February 2000 through February
11 2002.

12 During the time period in dispute Peoples
13 Gas has had several account holders in the
14 apartment, the first floor apartment of 5729 West
15 Addison; is that correct?

16 A. After --

17 Q. During the period -- slightly -- let's say
18 from a period of June 2000 through June 2002, there
19 had been multiple people living in that building --
20 in that unit?

21 A. Yes.

22 Q. Did a person by the name of Eric Nieto have

1 an account associated with that unit?

2 A. Yes, he did.

3 Q. I'm going to show you, Mr. Schmoldt,
4 something that's been identified as Exhibit J. Do
5 you want to take an opportunity to just review
6 that, Mr. Schmoldt.

7 Are you familiar with this document?

8 A. Yes.

9 Q. What is this?

10 A. It's a record of Eric Nieto's account.

11 Q. And is this something that you keep in the
12 normal course of your business?

13 A. Yes.

14 JUDGE RILEY: Can we identify this as
15 Respondent's Exhibit 1?

16 MS. ZIAJA: Certainly.

17 JUDGE RILEY: You said it was J. I don't
18 know --

19 MS. ZIAJA: That's fine. I can do Exhibit 1.

20 JUDGE RILEY: Exhibit 1, okay. That will be
21 easier. Respondent Exhibit 1.

22 I'm sorry, Mr. Schmoldt, what was your

1 response to what this document is?

2 THE WITNESS: It's a copy of his records, yes.

3 JUDGE RILEY: A copy of Eric Nieto --

4 THE WITNESS: Nieto's account.

5 (Whereupon, Respondent's

6 Exhibit No. 1 was

7 marked for identification

8 as of this date.)

9 BY MS. ZIAJA:

10 Q. Does this reflect a true and accurate copy

11 of how this record is kept in your normal course of

12 business?

13 A. Yes.

14 MS. ZIAJA: I would move to admit this into

15 evidence.

16 JUDGE RILEY: What does it purport to show?

17 BY MS. ZIAJA:

18 Q. Mr. Schmoldt, based on this record what --

19 when was Mr. Nieto's service turned on?

20 A. The records indicate Mr. Nieto's service

21 was turned on November 4th of 1999.

22 Q. And when was his service terminated?

1 A. February 4th of 2000.

2 Q. And does it provide a final reading at that
3 time?

4 A. Yes.

5 Q. And what was that final reading?

6 A. 8078.

7 MS. ZIAJA: Your Honor --

8 JUDGE RILEY: I'm sorry. The termination of
9 service was February 4, 2000?

10 THE WITNESS: Yes.

11 JUDGE RILEY: Thank you.

12 MS. ZIAJA: Your Honor, we're offering this into
13 evidence to show that there was a tenant in this
14 building and that the service was terminated on
15 February 4th, 2000, which actually is the beginning
16 of the disputed period.

17 JUDGE RILEY: Okay. Mr. Schmoldt, does this
18 mean that Mr. Nieto did not have service at this
19 building after February 4, 2000?

20 THE WITNESS: Correct. We show we shut off his
21 service.

22 JUDGE RILEY: All right. Ms. O'Donnell, do you

1 have any objection to the admission of Respondent's
2 Exhibit 1 into evidence?

3 MS. PATRICIA O'DONNELL: No.

4 JUDGE RILEY: All right. Respondent's Exhibit 1
5 is admitted.

6 (Whereupon, Respondent's
7 Exhibit No. 1 was
8 admitted into evidence as
9 of this date.)

10 (Whereupon, Respondent's
11 Exhibit No. 2 was
12 marked for identification
13 as of this date.)

14 BY MS. ZIAJA:

15 Q. Mr. Schmoldt, I'm going to show you another
16 document that's been marked as Respondent's Exhibit
17 2. Could you please tell us what this is?

18 A. This is a copy of the service order of the
19 person who -- of the service person who went out
20 there on February 4th to shut off Mr. Nieto's gas
21 service.

22 Q. And does it confirm what -- or does it

1 indicate what date this was turned off?

2 A. Yes, on February 4th, 2000. It's

3 highlighted in yellow on the paper.

4 Q. Was there a lock put on this meter?

5 A. According to the records, yes.

6 Q. And why would a lock be put on?

7 A. Because the customer requested to have the

8 gas shut off.

9 Q. So this is standard procedure then?

10 A. Yes.

11 MS. ZIAJA: Your Honor, I move to have this

12 entered into evidence as Respondent's Exhibit 2.

13 JUDGE RILEY: Okay. Just to make certain that I

14 understand what I'm talking about, this is a two-

15 page exhibit, right?

16 MS. ZIAJA: That's correct. The first page is a

17 key which indicates how people can use it to read

18 the report that's attached.

19 JUDGE RILEY: Ms. O'Donnell, do you have any

20 objection to the admission of Respondent's Exhibit

21 2 into evidence?

22 MS. PATRICIA O'DONNELL: No.

1 JUDGE RILEY: I'm sorry?

2 MS. PATRICIA O'DONNELL: No.

3 JUDGE RILEY: Respondent's Exhibit 2 is

4 admitted.

5 (Whereupon, Respondent's

6 Exhibit No. 2 was

7 admitted into evidence as

8 of this date.)

9 (Whereupon, Respondent's

10 Exhibit No. 3 was

11 marked for identification

12 as of this date.)

13 BY MS. ZIAJA:

14 Q. Mr. Schmoldt, I'm going to be providing you

15 one more document that I relabeled as Respondent's

16 Exhibit 3. I apologize for the difficulty in

17 reading this in terms of the copy quality.

18 Mr. Schmoldt, what is this document?

19 A. It's showing the tenants who applied for

20 gas service there and who we billed.

21 Q. And this is in reference to the apartment

22 at 5729 --

1 A. Yes, 5729 --

2 Q. -- West Addison?

3 A. -- West Addison.

4 Q. The first floor apartment?

5 A. Yes.

6 Q. And is this something that you keep in the

7 normal course of your business?

8 A. Yes.

9 Q. Based on this document when was the next

10 date that a person called to request service at

11 this apartment?

12 A. That would be April 29th, 2002. It would

13 be Michael Streff.

14 JUDGE RILEY: I lost the thread of this.

15 Counsel, go ahead. Go ahead.

16 BY MS. ZIAJA:

17 Q. And you can see that by reference how? How

18 do you read this?

19 A. On the sheet -- I don't know what sheet --

20 it's very hard to read. It would be like the third

21 wording. It says -- it says, TON and CUST and

22 CHANGE. That means that's a turn on for a new

1 customer.

2 Q. I see. And what was the date that that was
3 turned on?

4 A. 4/29/2002.

5 Q. So Peoples Gas does not have any records of
6 any person contracting for gas services between the
7 time period of February 2000, which is when Eric
8 Nieto shut off service, and April --

9 A. 29th of 2002.

10 Q. When Michael Streff called to have service
11 turned on?

12 A. Right. Correct.

13 Q. What about James Cerny? Do you have any
14 account information on a Mr. James Cerny?

15 A. No. We had no record of James Cerny
16 applying for gas service.

17 Q. And what about Raymond Cerny?

18 A. No record of Raymond Cerny applying for gas
19 service.

20 MS. ZIAJA: Your Honor, I move to have this
21 admitted into evidence as it reflects the occupancy
22 of the apartment of 5729 West Addison.

1 MS. PATRICIA O'DONNELL: Can I ask a question?

2 JUDGE RILEY: Well, hold -- you'll have a chance
3 to cross-examine when she's done with the direct.

4 But for now we have to deal with the
5 motion to admit this as Respondent's Exhibit 3. Do
6 you have any objection to it?

7 MS. PATRICIA O'DONNELL: No.

8 JUDGE RILEY: All right. Then it is admitted.

9 (Whereupon, Respondent's
10 Exhibit No. 3 was
11 admitted into evidence as
12 of this date.)

13 (Whereupon, Respondent's
14 Exhibit No. 4 was
15 marked for identification
16 as of this date.)

17 BY MS. ZIAJA:

18 Q. I'm going to show you one more document,
19 Mr. Schmoldt, which I'm relabeling as Respondent's
20 Exhibit 4. At what point in time did you discover
21 that there was unauthorized gas usage at the
22 apartment at 5729 West Addison?

1 A. In September of '01.

2 Q. And does the record that I'm providing to
3 you reflect the discovery of that?

4 A. Yes.

5 Q. Could you please explain to us what this
6 record indicates?

7 A. This record indicates that we read the
8 meter at 5729 West Addison first floor three times
9 and discovered that the gas service was back on.

10 Q. So at this time Peoples Gas actually took
11 an actual meter read?

12 A. Yes.

13 Q. And what was that meter reading at that
14 time?

15 A. On September 10th of 2001 the meter reading
16 was 9928.

17 Q. And there was no longer a lock on the
18 meter?

19 A. No.

20 Q. Did Peoples Gas begin monitoring the
21 usage --

22 A. Yes.

1 Q. -- of this meter? And the monitoring of
2 that usage actually resulted in sending out the
3 bill to the unknown occupant?

4 A. Correct.

5 MS. ZIAJA: Your Honor, I move to enter this
6 exhibit as Respondent's Exhibit 4 to the extent
7 that it shows that there was a discovery of
8 unauthorized gas usage.

9 JUDGE RILEY: Just for my own information -- not
10 for my own information but for the record, what was
11 the meter reading when the gas was turned off?

12 THE WITNESS: 8078. And that's on Docket No. 1.

13 JUDGE RILEY: I understand.

14 THE WITNESS: 8078.

15 JUDGE RILEY: Is the title of this document a
16 comment detail?

17 THE WITNESS: Yes.

18 JUDGE RILEY: For Eric Nieto?

19 THE WITNESS: Yes.

20 BY MS. ZIAJA:

21 Q. Would it reflect Eric Nieto's name because
22 that's the last person you have of record?

1 A. Yes, because he's the last -- yeah. Yes.

2 JUDGE RILEY: Ms. O'Donnell, once again we have

3 a motion to admit Respondent's Exhibit 4 into

4 evidence. Is there any objection?

5 MS. PATRICIA O'DONNELL: No.

6 JUDGE RILEY: Respondent's Exhibit 4 is

7 admitted.

8 (Whereupon, Respondent's

9 Exhibit No. 4 was

10 admitted into evidence as

11 of this date.)

12 BY MS. ZIAJA:

13 Q. Now, based on the discovery of this

14 unauthorized usage, did you begin sending out bills

15 to an unknown occupant?

16 A. We did not send a bill out right away but

17 we did send out an unknown occupant bill, yes.

18 Q. Is that pursuant to your policy to do so?

19 A. Yes.

20 Q. When you discovered that there was this

21 going on, why didn't you terminate the service

22 immediately?

1 A. The person who goes out there is not a
2 person who shuts off the gas. They just go out
3 there to read meters. So that's all his job is to
4 do is just to read the meter and verify if gas is
5 on and off and that's it.

6 Q. Now, after the investigation of this and
7 the resultant -- I should say the lack of results
8 from the unknown occupant billings, did you send a
9 billing to the property owner?

10 A. Well, the first bill went to unknown
11 occupant and the second bill went to the property
12 owner.

13 Q. Did you ultimately shut off service to the
14 first floor apartment?

15 A. Yes.

16 Q. On what date, do you recall that? I have
17 an exhibit to assist you in your recollection with
18 that.

19 A. I believe it was April of 2002, if I'm not
20 mistaken.

21 JUDGE RILEY: It was in April of 2002?

22 THE WITNESS: Yes.

1 JUDGE RILEY: Okay.

2 (Whereupon, Respondent's

3 Exhibit No. 5 was

4 marked for identification

5 as of this date.)

6 BY MS. ZIAJA:

7 Q. I'm showing you, Mr. Schmoldt, what I've

8 designated as Respondent's Exhibit 5. Having had

9 the opportunity to review that, does that assist in

10 refreshing your recollection as to when the meter

11 was turned off?

12 A. Yes. It just shows that this is the meter

13 that was there, meter No. 1591484, and it was shut

14 off and removed on April 15, 2002. And then it was

15 tested on July 3rd, 2002.

16 Q. Was there any problems with how it was

17 reading?

18 A. No. Everything was fine with the meter.

19 Q. So the removal of the lock didn't damage

20 the meter; it simply --

21 A. No.

22 JUDGE RILEY: The meter was shut off

1 April 15, 2002?

2 THE WITNESS: Correct.

3 JUDGE RILEY: Okay. Was the lock put back on?

4 THE WITNESS: Well, the meter was removed so
5 there was no need to put a lock on.

6 JUDGE RILEY: Oh, the entire meter was removed?

7 THE WITNESS: The entire meter.

8 (Whereupon, Respondent's
9 Exhibit No. 6 was
10 marked for identification
11 as of this date.)

12 BY MS. ZIAJA:

13 Q. And I'm showing you a document that works
14 in conjunction with Exhibit 5. I've labeled this
15 Respondent's Exhibit 6. Would you please tell what
16 this document reflects?

17 A. That's the service order to shut off the
18 gas on April 15th.

19 Q. And what was the final meter read?

20 A. 0779.

21 JUDGE RILEY: Is this just a service order to
22 shut off the gas or was that the service order to

1 remove the whole thing?

2 THE WITNESS: That one -- this one is to cut off
3 the gas and then there's -- there should be another
4 order because it would be two separate orders.
5 They would then issue a separate order to remove
6 the meter.

7 JUDGE RILEY: Okay.

8 BY MS. ZIAJA:

9 Q. You have issued a final bill in this matter
10 to Ms. O'Donnell, have you not?

11 A. Yes, we did.

12 MS. ZIAJA: Excuse me for one second. I would
13 move to admit Exhibit -- Respondent's Exhibits 5
14 and 6 into evidence.

15 JUDGE RILEY: Ms. O'Donnell, do you have any
16 objection to the admission of Exhibits 5 and 6 into
17 evidence?

18 MS. PATRICIA O'DONNELL: No.

19 JUDGE RILEY: Exhibits 5 and 6 are admitted.

20 (Whereupon, Respondent's
21 Exhibit Nos. 5 and 6 were
22 admitted into evidence as

1 of this date.)

2 JUDGE RILEY: And you're saying a final bill was

3 sent to the complainant?

4 MS. ZIAJA: Yes. And I will be providing you

5 with a copy of that final bill, Mr. Schmoldt.

6 (Whereupon, Respondent's

7 Exhibit No. 7 was

8 marked for identification

9 as of this date.)

10 BY MS. ZIAJA:

11 Q. Mr. Schmoldt, I'm showing you a document

12 that's been labeled Respondent's Exhibit 7. Is

13 that the final bill that was issued to

14 Ms. O'Donnell?

15 A. Yes.

16 Q. And what date was that issued?

17 A. November 24th, 2003.

18 Q. And what is the total amount that is due

19 and owing?

20 A. \$2,802.07.

21 Q. And this reflects the entirety of the gas

22 usage at the property from the period of 2000

1 through 2002, February 2002; is that correct?

2 A. Correct.

3 Q. So the fact that the scope of this has been
4 limited is not yet reflected on that bill?

5 A. No.

6 Q. I'd like to talk to you a little bit about
7 that once people have had the opportunity to --

8 MS. PATRICIA O'DONNELL: Would you repeat what
9 you just said because I didn't understand it, the
10 scope of --

11 MS. ZIAJA: The final bill that's been issued by
12 Peoples Gas is reflecting a time period of
13 unauthorized usage associated with the apartment
14 building for the period of February 2000 through
15 February -- or April of 2002.

16 JUDGE RILEY: It's April of 2002?

17 MS. ZIAJA: Right. Because this has been
18 proceeding in the ICC hearings, the reduction has
19 not yet been reflected in the final bill that has
20 been sent.

21 And so depending upon how this ultimately
22 is resolved, Peoples Gas, pursuant to the agreement

1 to recognize that there was a tenant in that
2 apartment for at least part of the time, would then
3 issue a reduced bill and I'm going to discuss a
4 little bit greater detail relating to the ComEd
5 records momentarily.

6 So I would move at this point to enter
7 Respondent's Exhibit 7 into evidence.

8 JUDGE RILEY: Mr. Schmoldt, is it my clear
9 understanding then that the \$2,802.07 is still
10 subject to a recalculation?

11 THE WITNESS: Yes.

12 JUDGE RILEY: And that's due to the reduced time
13 period that is the subject of this hearing?

14 THE WITNESS: Yes. And the reason the bill
15 says, you know, zero on the top -- where it says,
16 Amount due, zero --

17 JUDGE RILEY: Right.

18 THE WITNESS: -- it's because we have the bill
19 under dispute for her so we're not saying, Hey, you
20 pay the -- she has it under dispute so that's why
21 we're not saying, Hey, you owe the \$2,800.

22 JUDGE RILEY: All right. But we don't know what

1 the exact amount is at this point; is that correct?

2 THE WITNESS: Correct, because it hasn't been
3 adjusted yet.

4 JUDGE RILEY: Any idea when that adjustment will
5 be made or when that calculation will take place?

6 MS. ZIAJA: That would be pursuant to -- since
7 this all came out throughout the ICC hearing and
8 nothing has been finalized at that point, it was
9 made -- it was I believe just a verbal discussion
10 back in May of 2003.

11 Once there's a resolution to this matter,
12 we can go back and determine what the usage would
13 have been for October 2001 through April 2002.

14 JUDGE RILEY: I guess my only question would be
15 that could be the subject of separate dispute
16 altogether.

17 So it is Peoples -- it's your testimony
18 that you don't know what that amount is going to
19 be?

20 THE WITNESS: No. I don't know what the
21 adjusted amount is going to be yet, no.

22 JUDGE RILEY: Ms. O'Donnell, what -- I'm sorry.

1 Go ahead.

2 MS. ZIAJA: I'm sorry.

3 BY MS. ZIAJA:

4 Q. However, when you issue these bills you do
5 this on a prorated basis for usage; is that how
6 this works?

7 A. Yeah, depending on if -- unless we have
8 meter readings for that time period. If we have a
9 meter reading in October of '01 and a meter reading
10 in April of '02 then we know what the exact usage
11 is. And then those charges would be -- the cost of
12 gas would be prorated between that time period
13 because we bill it in one lump sum or we can bill
14 it month to month. We have two options which we'll
15 then bill it what the gas charges --

16 Q. And you actually do in fact have actual
17 readings for that time period?

18 A. Yes.

19 Q. So as soon as this dispute between -- came
20 to light and you realized that there was
21 unauthorized usage you started taking actual meter
22 readings?

1 A. Yes.

2 (Whereupon, Respondent's

3 Exhibit No. 8 was

4 marked for identification

5 as of this date.)

6 BY MS. ZIAJA:

7 Q. So I'm going to show you something that's

8 identified as Exhibit 8, Respondent's Exhibit 8,

9 which would alleviate the concern about determining

10 what would be billed.

11 Mr. Schmoldt, can you please tell us what

12 this is?

13 A. This is the meter reading record for 5729

14 West Addison.

15 Q. And when it says "read code," can you

16 describe what these words indicate?

17 A. Actual means we physically read the meter.

18 A van reading means that they put a remote -- we

19 put a remote reading device on the meter.

20 Q. And now, looking at the time periods here

21 on what dates were there actual meter reads done to

22 the meter at the first floor apartment?

1 A. There was one done in February 4th of 2000,
2 which is the time we shut off the gas for Eric
3 Nieto. There was another one done November 8th of
4 2001; December 10th, 2001; October 10th, 2002 --
5 January 10th, 2000, I'm sorry; February 8th, 2002;
6 March 11th, 2002; April 8th, 2002; and April 15th,
7 2002. That's when we shut off the gas.

8 Q. So you have actual meter reads for every
9 period that you're willing to adjust?

10 A. Adjust, yes.

11 Q. And then CCF, what does that mean?

12 A. That's the amount of gas.

13 Q. So you actually have the units that were
14 used for this time period as well?

15 A. Yes.

16 MS. ZIAJA: I would move to offer Exhibit --
17 Respondent's Exhibit 8 into evidence.

18 JUDGE RILEY: Did we dispense with -- did we
19 deal with Respondent's Exhibit 7?

20 MS. ZIAJA: I motioned it, but I don't know if
21 it was ever offered in. I think we got into a
22 discussion relating to how was the usage calculated

1 on that. So I suppose we can offer this
2 Respondent's Exhibit 8 as a subpart of Respondent's
3 Exhibit 7 so that it can read in conjunction with
4 one another, if that would be of assistance to this
5 Court.

6 JUDGE RILEY: Let me ask a couple of questions
7 about 8.

8 DIRECT EXAMINATION

9 BY

10 JUDGE RILEY:

11 Q. What does "item status cancelled" mean?

12 A. The bills were deducted.

13 Q. And what does "back out" mean?

14 A. It coincides with cancelled. It's just how
15 the system is worked. The cancel and the back out
16 should be exactly the same.

17 Q. Okay.

18 A. I don't know why they did it for accounting
19 purposes but they did it.

20 JUDGE RILEY: I'd just as soon keep these
21 separate.

22 With regards to Respondent's Exhibit 7,

1 Ms. O'Donnell, do you have an objection?

2 MS. PATRICIA O'DONNELL: No.

3 JUDGE RILEY: And with regard to Respondent's

4 Exhibit 8, any objection?

5 MS. PATRICIA O'DONNELL: No.

6 JUDGE RILEY: Then Respondent's Exhibit 7 and 8

7 are admitted into evidence.

8 (Whereupon, Respondent's

9 Exhibit Nos. 7 and 8 were

10 admitted into evidence as

11 of this date.)

12 REDIRECT EXAMINATION

13 BY

14 MS. ZIAJA:

15 Q. What led to your decision to actually hold

16 Ms. O'Donnell nonliable for gas -- the unauthorized

17 gas usage for the period of October 2001 moving

18 forward?

19 A. We contacted ComEd, and ComEd had records

20 showing or stating that they said that a Raymond

21 Cerny was a tenant that they had for that time

22 period between October of '01 and April of '02.

1 Q. So Peoples Gas didn't actually have any
2 record of Raymond Cerny?

3 A. No.

4 Q. However, they relied on Commonwealth
5 Edison's records to assist Ms. O'Donnell in
6 reducing her bill?

7 A. Yes.

8 Q. And is that a policy of Peoples Gas to do
9 that?

10 A. Yes. We try to contact utilities and see
11 if we have the same records when a billing dispute
12 is forthcoming.

13 Q. Have you been able to recover any money
14 from James Cerny or Raymond Cerny?

15 A. No. I believe they owe ComEd money too, if
16 I'm not mistaken.

17 Q. So you've unilaterally decided to reduce
18 her bill even though she hasn't been able to
19 provide you any proof --

20 A. Yes.

21 Q. -- of tenancy for any period?

22 A. Correct.

1 Q. Did you have a conversation or have you had
2 correspondence -- I should rephrase that. Have you
3 had correspondence with Ms. O'Donnell relating to
4 the subject matter of this billing dispute?

5 A. I believe I sent her a letter and I might
6 have talked to her, but I can't -- I'm not 100
7 percent sure because it's been so long.

8 MS. PATRICIA O'DONNELL: We talked in the very
9 beginning.

10 BY MS. ZIAJA:

11 Q. Okay. I wouldn't ask any questions then if
12 you can't actually recall that.

13 Is there anything else that you'd like to
14 add, Mr. Schmoldt, that I may not have touched on?

15 A. No.

16 MS. ZIAJA: Then I have no further questions at
17 this time.

18 JUDGE RILEY: All right. That completes the
19 direct examination of Mr. Schmoldt.

20 Ms. O'Donnell, do you want to take a
21 minute or do you want to have a cross-examination
22 for Mr. Schmoldt?

1 MS. PATRICIA O'DONNELL: Yeah. I've taken notes
2 so, yeah, I'm ready.

3 JUDGE RILEY: Sure. Go ahead.

4 CROSS EXAMINATION

5 BY

6 MS. PATRICIA O'DONNELL:

7 Q. My first question is that -- well, first I
8 find it surprising that you put a lock on the same
9 day that you turned off the gas for Eric because
10 usually -- at least my experience with the gas
11 company is it takes them a while --

12 MS. ZIAJA: Objection. Is there a question?

13 JUDGE RILEY: Okay. Just put it in the form of
14 a --

15 BY MS. PATRICIA O'DONNELL:

16 Q. Is it customary for you to shut off the --
17 or put a lock on as soon as you get a request to
18 turn off the gas?

19 A. Yes.

20 Q. On Exhibit 3, this is showing that I
21 requested that the gas be turned off in my name on
22 April 25th, 2003?

1 A. No. You didn't -- you didn't request --
2 no. That's just that we sent you a cutoff notice.

3 Q. Oh, on April --

4 A. On November 24th, 2003 you issued -- you
5 requested the cutoff, the one right above it.

6 Q. So does that mean I paid for the gas while
7 Danny and Eva were living in the apartment after I
8 moved out? Yeah? I'm just curious.

9 A. I don't know who Danny -- they never
10 applied for gas service. If that's what you're
11 getting at, no.

12 Q. You stated that on September 10th of 2001,
13 that's when you were made aware of the tampering
14 with the meter?

15 A. We read the meter, yes.

16 Q. Yeah. And that -- this Exhibit 8 then
17 indicates that you did meter readings after that
18 point in time and you saw that there was still
19 meter usage?

20 A. Um-hmm. Yes.

21 Q. How come nobody went and turned it off or
22 how come nobody -- I don't -- what I'm having a

1 problem with is that if you knew that there was a
2 problem and that someone was basically stealing the
3 gas, why didn't somebody do something
4 September 10th, 2001?

5 A. Well, again, that was just a meter reader.
6 Our service department is union jobs, so they have
7 certain people do certain tasks. And this guy's
8 task was only to read the meter and that's all he's
9 allowed to do.

10 He's not allowed to touch the meter, turn
11 off the gas, turn on the gas, relight appliances.
12 He's not allowed to do anything other than read the
13 meter and that's all he's supposed to do.

14 So they just sent out meter readers just
15 to verify, Hey, yeah. There's gas usage.

16 And they go out there and verify that
17 there is still usage on the meter so that's why we
18 kept doing meter readings and monitored the gas
19 usage.

20 Q. Shouldn't somebody at the gas company then
21 have been notified even though he can't do anything
22 about it? But shouldn't they be notified and send

1 somebody else out that's job it is to
2 turn -- to remove the --

3 A. Well, they did -- we did eventually -- we
4 tried to notify the party who was there, but we
5 sent them out that unknown occupant bill, hoping
6 that somebody would call and say, Hey, I'm not an
7 unknown occupant. I'm John Doe. I live here.

8 Q. You said that you sent out one notice and
9 I'm assuming that would be then the notice that I
10 have that was dated in October of 2002, which would
11 be a year after the fact to the unknown occupant,
12 and then you contacted the landlord, which was me,
13 which was October also of 2002, which was a year
14 later from when you first originally were advised
15 of the tampering with the meter or made aware of
16 the tampering of the meter.

17 Is that customary to wait a year before
18 you notify the landlord?

19 MS. ZIAJA: I would object that that was not
20 what Mr. Schmoldt's testimony was. I do not
21 believe, and we can certainly review the record,
22 that he testified that there was only one bill sent

1 out to unknown occupant.

2 MS. PATRICIA O'DONNELL: That was what I heard.

3 I could be wrong.

4 MS. ZIAJA: Mr. Schmoldt, is that what you

5 testified to?

6 THE WITNESS: I think I said there was one -- we

7 did send out a bill to unknown occupant, yes. I

8 don't remember if I said it was one or two, but I

9 know I said we did send out a bill to unknown

10 occupant, yes.

11 MS. ZIAJA: Okay.

12 THE WITNESS: And I know it was at least one

13 bill sent out to unknown occupant. So I know that

14 for a fact; there was at least one.

15 JUDGE RILEY: The question was a little bit

16 drawn out and I kind of lost the thread of it. Are

17 you able to answer it?

18 THE WITNESS: I know at least one bill was sent

19 out to unknown occupant. That's a fact.

20 BY MS. PATRICIA O'DONNELL:

21 Q. That would have been October -- actually

22 October?

1 A. Yeah, October.

2 Q. October 7th, 2002?

3 A. Yes.

4 Q. Which was a year and one month after you

5 found out that there was tampering approximately --

6 because you said it was on September 10th of 2001

7 that you were aware of the tampering?

8 A. There's no dates on this bill other than

9 just the date it was sent out.

10 JUDGE RILEY: I think that the original question

11 went to whether or not it's customary for Peoples

12 to wait so long between the issuance of a bill to

13 an unknown occupant and then an issuance of a bill

14 to the owner of the property, which you

15 characterize as what, approximately a year,

16 Ms. O'Donnell?

17 THE WITNESS: Generally we don't, no.

18 JUDGE RILEY: Okay.

19 MS. PATRICIA O'DONNELL: Okay. I have no other

20 questions.

21 MS. ZIAJA: I have a brief redirect.

22 JUDGE RILEY: Okay. Let me make a note here.

1 Go ahead.

2 REDIRECT EXAMINATION

3 BY

4 MS. ZIAJA:

5 Q. Is Peoples Gas governed by a moratorium?

6 A. Yes.

7 Q. When is the dates of the moratorium?

8 A. October -- it's usually October to April.

9 Q. And that -- and what does the moratorium

10 entail? What does it dictate to Peoples Gas?

11 A. Generally we can't shut off gas service

12 between October and April for the heating season.

13 Q. And when was this meter -- unauthorized

14 usage discovered?

15 A. It was first discovered in September.

16 Q. What -- do you have the exact date?

17 A. September 10th of 2001.

18 Q. Middle of September. You would have been

19 covered by the moratorium then in October?

20 A. Right.

21 Q. You wouldn't been able to shut this off,

22 this gas service off?

1 A. Correct.

2 Q. And when did you in fact turn this service
3 off?

4 A. April.

5 Q. So as soon as the moratorium was over you
6 turned the service off?

7 A. Yes.

8 Q. So you were prohibited from turning the
9 service off?

10 A. Yes.

11 Q. And you indicated that there was one bill
12 that was -- well, there's a dispute as whether or
13 not -- how many bills were sent to the unknown
14 occupant.

15 I'm going to redirect your attention to
16 Respondent's Exhibit 8. Can you read that first
17 box?

18 A. The one that's -- first cancelled box,
19 October -- February 4th, 2000?

20 Q. Where it says bill, bill status?

21 A. Are you on No. 8?

22 Q. Is this No. 8? Right.

1 A. Okay.

2 Q. What does that first column indicate?

3 A. We sent out -- according to this we sent
4 out a bill on April 2nd, 2002.

5 Q. Any other dates that you sent out bills?

6 A. October 23rd, 2002 was the next time there
7 was another bill issued. That would have been --
8 it looks like that bill -- that's when the bill was
9 cancelled.

10 Q. So you actually sent a bill out in April of
11 2002?

12 A. Yes.

13 Q. And that would have been at the time that
14 you also terminated the service?

15 A. It was prior to us terminating the service.
16 It was a few days prior to that, seven days to be
17 exact.

18 Q. So you sent out a notice to unknown
19 occupant on April 8th? Is that -- am I reading
20 this correctly?

21 A. We sent out a bill April 8th, yes, of 2002.

22 Q. Indicating that there was gas usage, didn't

1 get a response, turned it off as soon as the
2 moratorium was over?

3 A. Correct.

4 MS. ZIAJA: I have nothing further.

5 MS. PATRICIA O'DONNELL: Can I have a question
6 now?

7 JUDGE RILEY: On recross? Yeah.

8 RECROSS EXAMINATION

9 BY

10 MS. PATRICIA O'DONNELL:

11 Q. The fact is, though, then that between
12 September 10th, 2001 you had 20 days to indeed turn
13 the gas off before the moratorium took effect. So
14 the gas company could have turned it off if they
15 chose to?

16 A. They could have turned it off if we chose,
17 yes, but a lot of times we would send out a second
18 meter reader just to make sure the guy read the
19 meter right the first time, just to make sure that,
20 Hey, I didn't -- he didn't misread it.

21 So they verified that he did read it right
22 in October but at that time, you know, it was too

1 late. It was moratorium time.

2 JUDGE RILEY: Anything further?

3 MS. PATRICIA O'DONNELL: Uhn-uhn.

4 JUDGE RILEY: Okay. That's it then. Give me
5 just a second.

6 Here's the situation: I cannot prepare an
7 order in this matter until I know what is the sum
8 of money that Peoples Gas states the respondent --
9 or the complainant owes. And until that adjustment
10 is made, until there is a determination of the
11 exact sum of money that is attributed to the
12 complainant, I can't prepare an order.

13 As a result I'm going to continue this
14 matter and I'm not going to close the record. And
15 just as a matter of fundamental due process, she
16 has got to know what she is up against as far as
17 money owed and it may spawn -- you know, let me
18 strike that.

19 Just I guess what I'm trying to say is
20 that it may trigger more of this case depending on
21 what she receives. We don't know if it's going to
22 be high, low, what, and that will be all from her

1 standpoint.

2 So as a result I'm going to leave this
3 matter open. I want to continue to a date
4 specific. Now, that doesn't mean that we're going
5 to get back together for testimony or evidence but
6 I want to get some idea from Peoples how long it's
7 going to take, if it's possible if we can estimate
8 how long it's going to take to get an adjusted --
9 to do the readjustment and give her final notice of
10 the bill.

11 MR. BRIAN SCHMOLDT: 24 hours.

12 MS. ZIAJA: Yeah. It doesn't take very long to
13 issue an adjusted bill based on the fact that we
14 have actual readings.

15 JUDGE RILEY: Right. Now, there's the other
16 matter of how do we get that -- how is that made
17 known to us? How is that made known to this Court
18 so that I can put it into an order and say this is
19 the amount that's being disputed if that's the
20 amount -- if that is the amount that's being
21 disputed?

22 MS. ZIAJA: We can actually -- I can give you a

1 call once I get the final amount. We can go over
2 what the figures are and how they came up with it.
3 And if we have agreement on it, we can submit it as
4 an agreed -- not an agreement in terms of this is
5 what you are willing to pay but at least this is
6 what we are agreeing to is the amount in dispute
7 less the periods that we're willing to waive. And
8 then we can --

9 JUDGE RILEY: Right. Exactly. Then this is
10 going to be the amount from February 2000 to
11 October 2001 --

12 MS. ZIAJA: To October 2001. And then she and I
13 can actually just submit that to the Court as a
14 dispositive figure.

15 JUDGE RILEY: How do we get it on the record,
16 make it an exhibit?

17 MS. ZIAJA: I can make it an exhibit.

18 JUDGE RILEY: Make it an exhibit.

19 MS. ZIAJA: Okay.

20 JUDGE RILEY: That will be Respondent's Exhibit
21 9.

22 MS. ZIAJA: We can make it an exhibit as to a

1 final bill.

2 MR. BRIAN SCHMOLDT: Because I can get her a new
3 adjusted final bill and then there would be a
4 separate bill for Mr. Cerny. He'll have a totally
5 separate bill.

6 JUDGE RILEY: Fine. We don't care about him.
7 We're worried about the final bill to -- and that
8 will be the exhibit that we're talking about.

9 MS. ZIAJA: We'll enter it as a joint exhibit.

10 JUDGE RILEY: That would be fine.

11 MS. ZIAJA: And then that way it will
12 distinguished between Complainant's Exhibit 1, our
13 Exhibit 1. It will be Joint Exhibit 1.

14 JUDGE RILEY: All right. Then what I'm going to
15 do then, I'll continue this for -- just to be on
16 the safe side, what's today, the 13th?

17 MS. ZIAJA: Today's the 13th.

18 JUDGE RILEY: Why don't I just continue this to
19 July 22, and as I say, that's just for the purpose
20 of getting the final recalculation and the final
21 bill to Ms. O'Donnell. And that way, you know, she
22 can view it and you can discuss it, you know, as

1 necessary.

2 MS. ZIAJA: Okay.

3 JUDGE RILEY: There will almost -- unless you
4 request to bring in witnesses and that sort of
5 thing and to reopen your case in chief, you know,
6 make a motion to reopen your case in chief, I don't
7 see any need for us to get back together. But you
8 know, review the final bill and see what your
9 position is from that point on.

10 And I'll keep the record open through
11 July 22 at least. Is there anything further from
12 the complainant?

13 MS. PATRICIA O'DONNELL: No.

14 JUDGE RILEY: Is there anything further from the
15 respondent?

16 MS. ZIAJA: No, there's not.

17 JUDGE RILEY: All right then. I'll continue
18 this to July 22.

19 (Whereupon, the above-entitled
20 proceedings were continued to
21 July 22, 2004 at 1:30 p.m.)
22